

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-130-C - ORDER NO. 2002-353  
MAY 6, 2002

IN RE: Application of Total Call International, Inc. ) ORDER  
for a Certificate of Public Convenience and ) GRANTING  
Necessity to Operate as a Reseller of ) CERTIFICATE FOR  
Interexchange Telecommunications Services ) LONG DISTANCE  
within the State of South Carolina and for ) AUTHORITY AND  
Alternative Regulation. ) MODIFIED  
 ) ALTERNATIVE  
 ) REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Total Call International, Inc. ("Total Call" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. In addition, the Company requests that the Commission regulate its business services offerings in accordance with the principles and procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2001) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Total Call to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas.

The purpose of the Notice of Filing was to inform interested parties of Total Call's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Total Call complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on April 18, 2002, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Scott A. Elliott, Esquire, represented Total Call. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Vivian B. Dowdy, Auditor, and James M. McDaniel, Chief of Telecommunications, Utilities Department, testified on behalf of the Commission Staff.

Mark Leafstedt, President of Total Call, appeared and testified in support of the Application. The record reveals that Mr. Leafstedt oversees all aspects of the Company's management and planning and is responsible for the initial capitalization and the overall direction of the Company. The record also reveals that Total Call is a California corporation that has been authorized to transact business within the State of South Carolina. As a reseller of intrastate interexchange telecommunications services, Mr. Leafstedt testified that Total Call has been in business for approximately three years and primarily serves ethnic communities all over the country through the distribution of prepaid calling cards. He stated the prepaid calling cards are distributed by a network of distributors. He said Total Call is now extending its services to include 1+ long distance services. He said Total Call seeks authority to operate as a reseller of intraLATA and

interLATA intrastate telecommunications services in South Carolina on a statewide basis. He offered that Total Call has no plans at this time to construct any telecommunications transmission facilities of its own in South Carolina and seeks no construction authority. He stated that Total Call will operate exclusively as a switchless reseller.

In conjunction with the offering of prepaid calling cards and the Commission's requirement of a \$5,000 bond, Mr. Leafstedt testified his Company is prepared to comply with that requirement. He further testified that Total Call does not intend to do telemarketing but the Company understands the Commission's guidelines. The record reveals that Total Call intends to market its services through direct sales by Total Call's employees and independent sales agents, primarily distributors of prepaid calling cards. Mr. Leafstedt stated that Total Call does not sell to the consuming public; they sell directly to distributors. Mr. Leafstedt explained that his Company contacts with distributors. Mr. Leafstedt testified that he and the Company's Chief Operating Officer will serve as the regulatory contact persons. He said they both could be reached at (213) 239-0910.

Regarding the Company's technical abilities to offer telecommunications services in South Carolina, Mr. Leafstedt testified that Total Call intends to utilize Qwest, BellSouth and Sprint as its underlying carriers. He stated that Total Call will only utilize carriers properly certified by this Commission to provide service in this state. Total Call is authorized to provide telecommunications services in forty-six states and is currently operating in forty states. According to Mr. Leafstedt, Total Call's customer service hours are 7:00 a.m. until 11:00 p.m. seven days a week, Pacific Standard Time. He offered that

the caller will be able to leave a message on an answering machine after 11:00 p.m. which will be responded to on the following day. He said the Company's name and toll free telephone number appear on the prepaid calling cards which sell in increments of \$5, \$10, and \$20. Mr. Leafstedt testified that Lorena Ballestros is the director of the customer service area and can be reached at (800) 330-6895.

Concerning the financial ability of Total Call to operate within South Carolina, Mr. Leafstedt stated that Total Call became profitable late in fiscal year 2000. He said at the end of April, 2001, Total Call showed a profit of \$300,000. He said the Company's financial condition has continued to improve as the business has grown. He offered that Total Call uses conservative accounting principles which do not recognize revenue on its books until the prepaid calling cards are actually used. He said the receivables are considered deferred revenue in his Company's accounting methods and he stated deferred revenue has come well under control and within acceptable levels.

As to Total Call's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Leafstedt testified that Total Call's personnel represent a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. Mr. Leafstedt, President and Chief Financial Officer since 1999, said that his entire career has been in the service industry. He further said he had been in the telecommunications industry for approximately eight years. The record reveals he received a Bachelor of Science degree in Business Administration, Accounting from California State University at Long Beach and an MBA degree from the Graduate School of Business at Pepperdine University in 1973. As to Total Call's other

management personnel, Mr. Leafstedt testified that Wilson Chai is the new Chief Financial Officer for Total Call. Mr. Chai has previous experience in corporate finance and received a Bachelor of Arts degree in Economics from the University of Chicago and an MS degree in accounting from DePaul University Graduate School of Business.

Mr. Leafstedt stated that Total Call has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said Total Call has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Total Call has not marketed its services in South Carolina prior to receiving certification, and Total Call has not received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Mr. Leafstedt stated that Total Call will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina.

Mr. Leafstedt testified that Total Call agrees to make all changes to its final tariff that were suggested by the Commission Staff. He additionally agreed to file a copy of the Company's Bill Form with the final tariff in order to be in compliance with the Commission's Rules and Regulations. He stated he understands and is aware of the Commission's requirements that all telecommunications carriers file a report on South Carolina operations, a gross receipts report, and a universal service contribution report on an annual basis. Mr. Leafstedt stated the Company does intend to offer prepaid calling

cards and agrees to post the required \$5,000 bond. He committed to file his Company's financial reports on a timely basis and to keep South Carolina specific records.

Total Call requested that all of its business service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is Total Call's intent by this request to have its business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States. Mr. Leafstedt testified that he understands that alternative regulation has now been modified by this Commission because of the re-imposition of rate caps with regard to certain "operator assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange as the toll provider. Mr. Leafstedt testified he understands that Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls.

Ms. Dowdy testified as to her findings of the Audit Department's review of Total Call's unaudited financial statements that were submitted as part of the Company's Application. She stated she reviewed financial statements included in the Application that were dated as of April 30, 2001. According to Ms. Dowdy, the Company's April 30, 2001, balance sheet indicated that Total Call had a profit from operations, that cash made up 13.52% of the Company's total assets, and that long term debt comprised 3.7% of total liabilities and capital of the balance sheet. She further testified that retained earnings and stockholders' equity as of April 30, 2001, were positive. Ms. Dowdy stated that in order

for the Company to continue to operate, it would need to sustain its ability to maintain profits and/or have another source for working capital. She said such source could come from long term debt, additional paid in capital by the owners, or profits from operations. Ms. Dowdy reviewed the Commission's requirements for filing financial reports. She stated the Company is required annually to file annual reports, gross receipts reports and the Intrastate State Universal Service Fund (USF) worksheet.

The purpose of McDaniel's testimony was to present to the Commission the findings of the Utilities Department regarding the Application of Total Call for a Certificate of Public Convenience and Necessity. Additionally, the purpose of McDaniel's review was to ensure that the Company's tariff complied with the Commission's regulations, policies and orders. His testimony and exhibit consisted of comments and suggested modifications to the Company's tariff. Mr. Leafstedt agreed the Company would make all the changes to Total Call's tariff as recommended by Commission Staff witness James M. McDaniel.

According to the Application and Mr. Leafstedt's testimony, Total Call requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Total Call can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Los Angeles, California; it will keep South Carolina specific records. Mr. Leafstedt stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Total Call also requested that it be allowed to keep its books and financial records according to the Generally Accepted

Accounting Principles (GAAP) rather than according to the Uniform System of Accounts (USOA).

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. Total Call is organized as a corporation under the laws of the State of California and has been authorized to transact business within the State of South Carolina.

2. Total Call is a provider of long distance services and wishes to provide long distance services in South Carolina.

3. Total Call has the experience, capability, and financial resources to provide the services as described in its Application.

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Total Call to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the long distance services of Total Call which are consistent with the principles and procedures established for alternative regulation for business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of Total Call including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Total Call also.

3. The Commission adopts a rate design for Total Call for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Total Call shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Total Call shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2001).

5. If it has not already done so by the date of issuance of this Order, Total Call shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order

and shall be consistent with the Commission's Rules and Regulations. Further, Total Call shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.

6. Total Call is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Total Call resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Total Call shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Total Call changes underlying carriers, it shall notify the Commission in writing.

9. Total Call shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, Total Call shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Total Call shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms); this form shall be utilized for the provision of this

information to the Commission. Further, Total Call shall promptly notify the Commission in writing if the representatives are replaced.

10. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed annually.

If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

The Company shall amend its tariff to include provisions on the Company's prepaid calling cards. In addition, the Company shall include its name on the back of each of its prepaid calling cards.

11. With regard to the origination and termination of toll calls within the same LATA, Total Call shall comply with the terms of Order No. 93-462, Order Approving

Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

12. The Company's request to maintain its books in accordance with Generally Accepted Accounting Principles (GAAP) is granted.

13. The Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (Supp. 2001) which requires the Company's books and records to be kept in the State of South Carolina. The Company desires to keep its books and records at its principal place of business in Los Angeles, Florida. We find that it would be unusually difficult for the Company to maintain its books and records in South Carolina. It would be in the public interest to have the company maintain its books and records at its principal place of business; therefore, the Company's request for a waiver of Regulation 103-610 is granted.

14. Total Call is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Total Call shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore,

Total Call shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS." This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be filed with the Commission no later than October first of each year.

16. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15<sup>th</sup>.

17. This Order shall remain in full force and effect until further Order of the Commission.

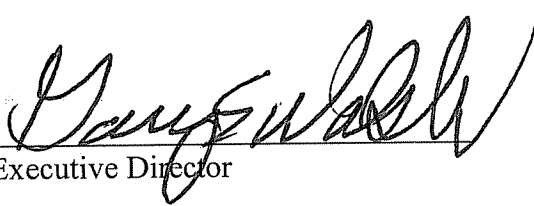
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



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Executive Director

(SEAL)